Chicago-Kent Law Review

Volume 7 | Issue 4 Article 4

January 1929

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In other countries—England, France, Germany, Canada—the bar is vested in varying degrees with authority in reference to the admission, the government and the discipline of its members. In the United States, such control, generally speaking, has been vested in the courts either by express constitutional or statutory provisions or by legal construction as being one of the functions of the Judicial Department of the Government.

Shortly after the adoption of the Constitution of 1818, the Legislature of Illinois undertook to confer on two members of the Supreme Court the power to admit attorneys and on the entire court the power to disbar attorneys, and also provided that such admission should confer the right to practice in all the courts of record in the State. These provisions of the legislative body were not questioned and were acted upon for a great many years. The Legislature in 1874, upon the adoption of the Constitution of 1870, proceeded to enlarge upon its supposed legislative control of attorneys and the Court continued to acquiesce in such legislative control, but in 1899 upon the application of certain students to be admitted upon their law school diplomas as provided by an act of the legislature, notwithstanding the rule of the court requiring an examination, the court went into the matter carefully and concluded that the admission and disbarment of attorneys was solely in the control of the Judicial Department of the State, subject only to the police powers of the Legislature.*

The logical effect of this decision was to confirm in each court of record in the State of Illinois the common law right to determine who should be its officers, but since for seventy years the Supreme Court had exercised the control over the practice, it further held that by custom it had become the sole depository of this power. The Supreme Court is, therefore, the responsible head of the Judicial Department on this subject. Being so, the court is not only solely charged with the duty of supervising the admission of attorneys in the State, but is also charged with the responsibility for the conduct of every member of the profession practicing in the State. When it is recalled that there are seven thousand lawyers in the City of Chicago and as many more downstate, for whose conduct the Supreme Court is responsible, the magnitude of the undertaking is apparent. The Court has neither the machinery nor the money to meet this great responsibility. It is therefore the duty of the bar, being a part of the Judicial Department, to undertake to assist the Court in the discharge of its duty of overseeing the conduct of its numerous officers. The State Bar Association and the County and City Bar Associations throughout the State have responded to the call placed upon them to assist the Court in these matters and the Chicago Bar Association has for many years performed this duty in Cook County. The Court has approved the conduct of the bar associations and has more than once expressed its appreciation of the aid of the bar.

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*In re Day, 181, Ill. 72.

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Since out of every hundred complaints considered by grievance committees it has been found that less than five percent result in the request for disciplinary action, there has been, of course, a great deal of thought expended upon the question of what complaints should be received, what formalities should be required, and so forth. It is clear that if the Court should perform its full duty with respect to complaints against the attorneys for which it is responsible, it ought to receive any complaint which presents a specific charge of misconduct against any attorney. Therefore, if the bar association undertakes to perform the duty of the Court in this respect, it must also receive any complaint making a specific charge of misconduct against any attorney. It has been concluded, therefore, that the theory upon which such matters should be taken up by bar associations is that every person who conceives himself to be wronged by an attorney should have the right of a hearing on his grievance. Therefore, that there should be no formalities of any kind in such investigations, at least in their early stage.

The second step should be to give the complainant a fair, impartial and substantially complete hearing on his complaint. Such hearing ought not to be public, but should be a private and confidential one, for since many complaints are unfounded, it would be unfair to the attorneys to have such investigations conducted in public. The conclusion has also been reached that a preliminary investigation of the complaint should not be made for the reason that such investigations are likely to injure innocent attorneys. It would be impossible for an investigator to discover facts surrounding a particular transaction without bringing to the attention of the persons to whom the investigator goes for information, the fact that the bar association or the grievance committee is investigating the attorney. The fact of the investigation alone would be seized upon by newspaper reporters and others as evidence of questionable conduct on the part of the attorney. The person from whom to learn the real facts is the attorney himself. He knows what the circumstances are surrounding the transaction better than anybody else, even than the client.

The next step should, therefore, be to send to the attorney a copy of the complaint, with a request that he give the committee his version of the matter. While this may result in almost any attorney receiving a letter from the Grievance Committee, yet if the committee keeps careful records, and, where the complaint is unfounded or unwarranted, enters a finding to that effect therein, the reputation of an attorney is protected from question. Full performance of this duty cannot be had without a willingness to receive and investigate all complaints. Protection to the honest attorney can only be given by an unbiased opinion of his fellow members of the bar, duly entered in their books and their records, after a full hearing on the matter.

It will be agreed that the power to investigate, hear and determine compaints ought not to be in any public body. There have been efforts made by State's Attorneys and by Legislative Assemblies to take the power of such investigation and presentation of disciplinary proceedings from the court and the bar associations, all of which, up to the present time, have proved unsuccessful, but unless this duty is fully performed by the bar, the time will come when its exercise should and will be vested in public officials. Every attorney, no matter how high his character or standing may be, should hold himself ready to receive from his bar association a letter of inquiry of the character mentioned, and ready to respond fully thereto. It is only by such attitude on the part of the profession and such encouragement from the members of the bar toward the investigating committee that the full duty of the profession in this respect can be performed.